

# **APPENDIX TAB D**

April 24, 2009 AAA conference call minutes



American Arbitration Association  
*Dispute Resolution Services Worldwide*

*Central Case Management Center*

April 24, 2009

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**VIA EMAIL ONLY**

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Re: 70 198 Y 00168 09  
Tricon Energy, Ltd.  
and  
Vinmar International Ltd.  
- Houston, Texas  
Claim: \$1,600,000.00

Gentlemen:

This will confirm a conference call with the parties was held on April 24, 2009, and the following items were discussed:

Respondent re-iterated objection as to arbitrability of matter.

Parties will confer with clients as to agreement to have an arbitrator appointed for the sole purpose of determining arbitrability and will advise the undersigned on or before May 11, 2009, of any such agreement.

The parties estimate that the hearings should take place by fall or winter of 2009 and require two to four days of hearings.

In order to assist the arbitrators with providing full disclosures, I have enclosed a Checklist for Conflicts to list those witnesses you expect to present, as well as any persons or entities with an interest in these proceedings. The checklist should only be sent to the AAA and should not be exchanged between the parties. The Conflicts Checklist shall be returned by May 11, 2009.

Respondent shall designate their respective arbitrator on or before May 11, 2009. Absent notification by that date, the Association will make the appointment as authorized by the Rules. In accordance with the Rules, party appointed arbitrators are neutral unless the parties agree otherwise. Therefore, absent receipt of your written agreement on or before the party appointed arbitrators will be neutral shall serve as neutral arbitrators and be subject to impartiality standards.

The parties are encouraged to begin their initial discovery requests in order to determine the process that will be needed once the arbitrator been appointed.

Enclosed is a sample scheduling order, which covers items to be discussed at the preliminary hearing. We encourage the parties to agree on as many deadlines as possible in order to facilitate the preliminary hearing with the arbitrator.

The Association will require advance deposits once the arbitrator appointed. These deposits are calculated on the number of days the parties have suggested will be necessary, in addition to the pre and post hearing time that the arbitrator may charge pursuant to the arbitrator's resume.

We request the parties not send copies of documents being exchanged between the parties to the Association, such as discovery, unless they are being referred to the arbitrator for a determination. These documents will be returned to you if we receive them.

If you need to extend any deadline during the course of these proceedings, please try to obtain the other party's agreement prior to contacting the Association. Untimely filings will not be considered by the Association.

This case will be administered by facilitating the exchange of appropriate written documents through the Association. To ensure the proper handling of all case-related documents, the parties are asked not to submit correspondence directly to the arbitrator. Correspondence should be submitted to the undersigned for transmittal to the arbitrator, copying the other party.

As a reminder, cases may be viewed and managed online through AAA's WebFile.

Please do not hesitate to contact me should you have a question.

Sincerely,

*Dennis Baird*

Dennis Baird  
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dlb  
Encl.